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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,200	05/14/2001	Cindy L. Price	659-787	8178
757	7590	10/17/2006	EXAMINER	
BRINKS HOFER GILSON & LIONE			REICHLER, KARIN M	
P.O. BOX 10395			ART UNIT	
CHICAGO, IL 60610			PAPER NUMBER	
			3761	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/855,200	Applicant(s) PRICE ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006 and 04 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13, 14, 16-32, 36-46, 48 and 49 is/are pending in the application.
- 4a) Of the above claim(s) 13, 18, 19, 23, 28, 29, 36-39, 42, 43 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 17, 20-22, 24-27, 30-32, 40, 41, 44, 45, 48 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 13, 18-19, 23, 28-29, 36-39, 42-43 and 46 are still withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Specification

Drawings

2. The drawings were received on 2-6-04 and 4-27-06. These drawings are approved by the Examiner. However see attached PTO-948.

Claim Language Interpretation

3. In claims 14 and 24, with respect to the side margin being unattached to the bodyside surface of the body panel between the free edge and the location, "unattached" is interpreted as not being directly attached. It is further noted that lines 22-25 of claim 14, as now amended, and similar language in claim 22 are interpreted to require that the entirety of each side margin, i.e. the portion, which overlaps the adjacent panel and is positioned between the free edge and a corresponding one of the first and second locations is unattached to the adjacent body panel, i.e. the entirety of the side margin is not required to be unattached to the adjacent body panel.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 14, 21-22, 24-25, 31-32, 40-41 and 44-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimberly Clark Corp, GB '741, hereinafter referred to as '741.

Claims 14, 21-22, 40-41: See '741 at Figures, especially element 80 with respect to element 70 in Figure 7 and element 70 with respect to element 54/56, page 1, lines 7-8, page 19, lines 14-33, i.e. garment encompasses skirts with no crotch area, i.e. gap between front and back portions thereof, page 5, lines 26-29, page 11, lines 14-17, page 12, lines 7-8 and 15-17, the paragraph bridging pages 12-13, the sentence bridging page 14-15, the paragraph bridging pages 17-18, page 20, lines 11-14 and page 26, lines 15-16, i.e. body panels are front and back portions of skirt (not shown/denoted), each portion having a body facing surface and at least two substrates, i.e. the outer layer of the garment/skirt similar to regions 30 and 32 of garment shown but with no crotch area and band 54, and the substrates each have a waist edge and another edge/terminal edge, i.e. where there is no crotch area, see again page 19, lines 31-33, so a gap exists between the another/terminal edges of the substrates of the portions, the absorbent composite is 24 which includes a backsheet 60, a topsheet 62, a retention portion 64, the garment facing surface of the composite 24 is directly connected to the body surface of the panels, i.e. the body facing surface of 54, at longitudinally extending locations, i.e. the connections have a dimension in the longitudinally extending direction, spaced from the waist edges as shown in Figure 5 for example. Side margins 80 extend between free edges thereof and the connection locations, note element 80 with respect to element 70 in Figure 7 and element 70 with respect to

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element 54/56 again, i.e. the assembly 24 is not attached to element 54 beyond edge 70, and include an elastic element which extends less than the entire length of the composite, i.e. between 5% and 100% as shown in the Figures, note especially the spacing between the element(s) and the lower end edge of element 80 in Figure 7. The side margins extend from end to end of the composite and are directly unattached to the front and rear portions of the skirt/panels between the free edges and the connection locations. The retention portion 64 does not form any portion of the side margin, see Figures, i.e. the side margins extend laterally outboard from the side edges of the retention portion. The composite 24 is the only component spanning the gap between the another/terminal edges of the front and rear portions of the skirt/panels, see cited portions of page 19 again. It is noted that the claims do not require the substrates of the panels be coextensive nor disclose a criticality of such a feature.

Claims 24-25, 31-32 and 44-45: see discussion of claims supra and, e.g. page 19, lines 14-33 and page 2, first full paragraph, i.e. garment taught by '741, discussed supra, is applied to the body to provide protection against body exudates. With regard to claim 25, see Figures 1, 7 and 10 which show the body side surface at the transversemost portions of the composite in contact with the body, Figures 1 and 10, and such portions including side margins 80, Figure 7.

Claim Rejections - 35 USC § 102/103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claim 48 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kimberly Clark Corp, GB '741.

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Claim 48 requires the side margin form an oblique angle relative to a plane defined by the body panels at the attachment locations. "Oblique" as defined by the dictionary is "neither parallel nor perpendicular, inclined". It is noted that the angle is not claimed as being formed in the any particular direction, i.e. transverse and/or longitudinal direction, of the garment nor that entirety of the side margins form such an angle. As seen in Figure 2 of '741, at least some portion of each of the side margins form or obviously form an oblique angle relative to the connection location planes in the longitudinal direction of the garment due to their curvature through the crotch region of the wearer. See also Figures 1 and 10 which show an oblique angle of the composite at the transversemost edges and such edges including side margins 80 as shown in Figure 7.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimberly Clark Corp., GB '741, in view of Kao Corp., GB '131, hereinafter referred to as '131.

This claim requires the retention portion being of hourglass shape whereas '741 shows a rectangular shape. It is noted that while '741 at page 14, first full paragraph teaches the composite may be of hourglass shape and all the layers as being of the same rectangular shape, it is not clear if the retention portion would be of hourglass shape in a composite of such shape. However, see '131 at page 6, lines 3-4 and page 9, lines 4-6. To make the rectangular retention

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portion of '741 of hourglass shape, if not already taught thereby, would be obvious to one of ordinary skill in the art at least in view of the interchangeability as taught by '131.

10. Claims 16-17, 20, 26-27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimberly Clark Corp., GB '741, in view of Fahrenkrug '522, hereinafter referred to as '522.

The claims require side margins formed from the backsheet and/or topsheet, i.e. integral coextensions, whereas '741 shows side margins formed of separate pieces. However, see '522 at Figures 3A-C and col. 6, lines 37-43, i.e. interchangeability of side/margins/flaps which are separate pieces with those that are integral coextension of the backsheet and topsheet. Therefore to make the separate side margins/flaps of '741 integral coextensions of the topsheet and backsheet instead would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by '522.

Response to Arguments

11. Applicants remarks of 4-27-06 have been considered but are deemed moot in that the issues discussed therein have not been reraised.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited also show various garments with an absorbent assembly spanning two body panels.

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13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the amendments to claims 14 and 24 and new claim 49.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KMR
October 13, 2006

Karin M. Reichle
Primary Examiner
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